

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 25 JAN 2005

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| Applicant's or agent's file reference APM:FP18353 | FOR FURTHER ACTION | See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416). |
| International Application No. PCT/AU2003/001157 | International Filing Date (day/month/year) 5 September 2003 | Priority Date (day/month/year) 5 September 2002 |
| International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ B07B 1/12, 13/04, 13/14; A22C 25/04, 29/00 | | |
| Applicant McROBERT, Ian | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

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|---|---|
| Date of submission of the demand 31 March 2004 | Date of completion of the report 5 January 2005 |
| Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929 | Authorized Officer D.R. LUM Telephone No. (02) 6283 2544 |

I. Basis of the report**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,
pages , as amended (together with any statement) under Article 19,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

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|-------------------------------|-------------------|-----|
| Novelty (N) | Claims 1-9, 11-13 | YES |
| | Claims 10 | NO |
| Inventive step (IS) | Claims 1-9, 11-13 | YES |
| | Claims 10 | NO |
| Industrial applicability (IA) | Claims 1-13 | YES |
| | Claims | NO |

2. Citations and explanations (Rule 70.7)

The citations in the ISR are all 'A' documents and Claims 1-9, 11-13, are novel and inventive with respect to these citations. However, the following new citations have been found for Claim 10 with respect to which Claim 10 lacks novelty:

NOVELTY (N) & INVENTIVE STEP: Claim 10

New Citations:

(a) GB 205246 A (BIDERMAN) 18 October 1923

This citation discloses a comb for cleansing hair as well as for wearing in hair. It is certainly a spreading device with recesses and teeth that separates the strands of hair and maintains the strands at pre-determined distances. Please see page 2, lines 86-101, of this citation where it is disclosed how the comb works. This comb *can* be placed diagonally with respect to the strands of hair, it *can* also be then oriented to lie transversely to the strands.

(b) US 3805858 A (MORIN) 23 April 1974

This citation discloses an apparatus for delimbing trees. Please refer particularly to column 2, line 30-column 3, line 3. It is disclosed that beam 28 has teeth 52 with recesses in between and that beam 28 spreads tree trunks as shown in figures 4 and 5. This beam *can* be placed diagonally with respect to the trunks, it *can* also be then oriented to lie transversely to the trunks. For example, if the pile of trunks in figure 4 are slightly askew, the beam 28 oriented in the raised position, as in figure 4, is 'diagonally' placed with respect to these trunks; the beam is then brought down to the horizontal position, as in figure 5, hence re-orientated, and is then transversely placed with respect to the trunks.

All this claim defines is a single comb-like device that can be oriented, that is, merely has the possibility or potential of being put, in various positions with respect to side-by side elements. Each citation above discloses a spreading device that has the same potential. Hence each citation discloses all the features of the claim.